

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

EDDY H. PAULUS II,

Plaintiff,

v.

HARL, et al.,

Defendants.

1:21-cv-00094-GSA-PC

**ORDER FOR CLERK TO RANDOMLY
ASSIGN A UNITED STATES DISTRICT
JUDGE TO THIS CASE**

AND

**FINDINGS AND RECOMMENDATIONS,
RECOMMENDING THAT THIS ACTION
PROCEED ONLY AGAINST DEFENDANT
BETRAN FOR VIOLATION OF THE
ADA, AND THAT ALL OTHER CLAIMS
AND DEFENDANTS BE DISMISSED**

OBJECTIONS, IF ANY, DUE IN 14 DAYS

Eddy H. Paulus (“Plaintiff”) is a state prisoner proceeding *pro se* and *in forma pauperis* with this civil rights action pursuant to 42 U.S.C. § 1983 and the Americans with Disabilities Act (“ADA”), 42 U.S.C. § 12132 (1994). On January 22, 2022, Plaintiff filed the Complaint commencing this action. (ECF No. 1.)

The Complaint names as defendants Captain F. Harl, Officer Bertrand, Officer Ramero, Olga Beregovskaya (Primary Care Physician), and the Assigned Primary Care Team

(collectively, “Defendants”), and brings claims for failure to protect Plaintiff, inadequate medical care, violation of the ADA, and failure to train and supervise subordinates.

The court screened the Complaint and found that it states a cognizable claim against Defendant Bertrand for violation of the ADA. (ECF No. 9.) On March 30, 2022, the court issued a screening order requiring Plaintiff to either (1) file a First Amended Complaint, or (2) notify the court that he is willing to proceed only with the claim found cognizable by the court. (*Id.*)

On April 6, 2022, Plaintiff notified the court that he is willing to proceed only with the ADA claim found cognizable by the court. (ECF No. 10.)

Accordingly, the Clerk is **HEREBY ORDERED** to randomly assign a United States district judge to this case.

AND

Based on the foregoing, it is **HEREBY RECOMMENDED** that:

1. This action proceed only on Plaintiff’s claim against defendant Bertrand for violation of the ADA;
2. All remaining claims and defendants be dismissed from this action;
3. Plaintiff’s claims for failure to protect Plaintiff, inadequate medical care, and failure to train and supervise subordinates be dismissed from this action based on Plaintiff’s failure to state any claims upon which relief may be granted;
4. Defendants Captain F. Harl, Officer Ramero, Olga Beregovskaya (Primary Care Physician), and the Assigned Primary Care Team be dismissed from this action based on Plaintiff’s failure to state any claims against them upon which relief may be granted; and
5. This case be referred back to the Magistrate Judge for further proceedings, including initiation of service of process.

These Findings and Recommendations will be submitted to the United States District Judge assigned to the case, pursuant to the provisions of Title 28 U.S.C. § 636(b)(1). Within fourteen (14) days after the date of service of these Findings and Recommendations, Plaintiff may file written objections with the Court. The document should be captioned “Objections to

1 Magistrate Judge’s Findings and Recommendations.” Plaintiff is advised that failure to file
2 objections within the specified time may waive the right to appeal the District Court’s order.
3 Martinez v. Ylst, 951 F.2d 1153 (9th Cir. 1991).

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5 IT IS SO ORDERED.

6 Dated: April 8, 2022

/s/ Gary S. Austin
UNITED STATES MAGISTRATE JUDGE